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Attorney for Defendants

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ALASKA

PAUL G. SHEARER	)	
	)	
Plaintiff,	)	No. 3:03-cv-00263-JKS
	)	(CONSOLIDATED)
V.	)	
	)	
UNITED STATES OF AMERICA,	)	UNITED STATES' MOTION TO
DIRK KEMPTHORNE, Secretary	)	DISMISS CASE No.
of the Interior et al.	)	3:03-cv-00269-JKS
	)	
Defendants.	)	
	)	

Pursuant to paragraph 14 of the Settlement Agreement (Docket Entry No. 137) filed on March 12, 2008, the United States moves for the dismissal with prejudice of *United States v. 3.05 Acres of Land et al.*, No. 3:03-cv-00269-JKS.

In support of the above motion the United States shows:

1. On March 12, 2008, defendants filed on behalf of the parties in this consolidated action a Settlement Agreement (Docket Entry No. 137) that provided for a partial settlement of this action. Paragraph 1 of the Settlement Agreement provided for the payment of an additional \$200,000.00 by the United States to Paul G. Shearer. Upon filing of proof of the payment of that \$200,000.00, paragraph 14 of the Settlement Agreement

provides that "the case of *United States v. 3.05 Acres of Land et al.*, No. 3:03-cv-00269-JKS, shall be dismissed with prejudice."

2. Payment has now been made of the \$200,000.00 to Paul G. Shearer. Exhibits 1 and 2 hereto. Therefore, pursuant to paragraph 14 of the Settlement Agreement, *United States v. 3.05 Acres of Land et al.*, No. 3:03-cv-00269-JKS is now to be dismissed. That dismissal will leave as pending the case of *Paul G. Shearer v. United States et al.*, No. 3:03-cv-00263-JKS, with, pursuant to paragraph 5 of the Settlement Agreement (Docket Entry No. 137) and the Order (Docket Entry No. 138) filed March 27, 2008, proceedings in that case to remain stayed pending resolution of administrative proceedings before the Department of the Interior in *United States v. Michael R. Mark Anthony*, No. AA-71472.<sup>1/</sup>

Dated this 15<sup>th</sup> day of July, 2008.

s/ Dean K. Dunsmore  
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<sup>1/</sup> On April 29, 2008 (subsequent to the filing of the Settlement Agreement) Administrative Law Judge Harvey C. Sweitzer entered a decision that found the two mining claims at issue in that proceeding to be valid. On June 2, 2008, the United States appealed that decision to the Interior Board of Land Appeals. That appeal has been docketed as IBLA No. 2008-184. Mr. Paul G. Shearer has filed a cross-appeal to the same decision.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 15<sup>th</sup> day of July, 2008, a copy of the foregoing United States' Motion to Dismiss Case No. 3:03-cv-00269-JKS together with attached Exhibits and a Proposed Order were served by placing said copy in a postage prepaid envelope, addressed to that person at the place and address stated below, and by depositing said envelope and contents in the United States mail at Anchorage, Alaska.

Paul G. Shearer  
Kathryn A. McCready  
1532 Meadows Drive  
Lake Oswego, Oregon 97034

s/Dean K. Dunsmore  
Dean K. Dunsmore